

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SWEETWATER UNION HIGH SCHOOL
DISTRICT.

OAH Case No. 2015110791

ORDER DENYING MOTION FOR
EXPEDITED HEARING

On November 17, 2015, Student filed a Due Process Hearing Request (complaint) against Sweetwater Union High School District. On November 20, 2015, the Office of Administrative Hearings issued a Scheduling Order and Notice of Due Process Hearing and Mediation (Scheduling Order). The Scheduling Order set this matter for mediation on December 23, 2015, a telephonic prehearing conference on January 8, 2016, and a due process hearing to begin on January 20, 2016.

On November 23, 2015, Student filed a motion to expedite this matter and set a due process hearing on December 3, 2015. The motion contained factual allegations not included in the complaint and indicated disagreement with the process of Student's suspension and pending expulsion hearing. Based upon the new allegations contained only in the motion for an expedited hearing, Student urged OAH to advance the date for the due process hearing based on Student's right to an expedited hearing related to disciplinary matters.

District did not file a response.

APPLICABLE LAW

A parent of a child with a disability who disagrees with any decision by a school district regarding a change in educational placement of the child based upon a violation of a code of student conduct, or who disagrees with a manifestation determination made by the district, may request and is entitled to receive an expedited due process hearing. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. § 300.532(a) (2006).¹) An expedited due process hearing before OAH must occur within 20 school days of the date the complaint requesting the hearing is filed. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c)(2).)

¹ All subsequent references to the Code of Federal Regulations are to the 2006 version.

DISCUSSION

Student's complaint alleges that 1) District failed to assess Student in response to Parent's request for assessment made on an unspecified date during the 2013-2014 school year; 2) District failed to identify Student as a student suspected of having a disability and being in need of special education and related services when Student returned to a District school for the 2015-2016 school year, and District failed to refer him for assessment; 3) Student is eligible for special education and related services under the category of emotional disturbance; and 4) Student requires placement at a residential treatment center and requests placement at Discovery Academy.

While Student's complaint mentions that Student was at some point suspended from Eastlake High School, the suspension is not identified as an issue for hearing.

Student's proposed remedies are for Student to be assessed, determined eligible for special education, and placed at Discovery Academy in Provo, Utah.

Student's complaint did not request an expedited hearing and did not contain allegations that would entitle Student to an expedited hearing; the complaint did not mention a challenge to a manifestation determination or that Student's placement was being changed due to disciplinary issues, etc. Because no expedited issues were alleged in the complaint, the matter was scheduled for dates on the ordinary, non-expedited, timeline.

If Student wishes to pursue any expedited claims, they must be stated in a request for due process hearing. If Student wishes to amend his complaint to add expedited issues, Student shall file a proposed amended complaint along with a motion for leave to amend.

Student's motion to expedite the due process hearing date on the current complaint is denied.

IT IS SO ORDERED.

DATE: November 30, 2015

/s/

KARA HATFIELD

Administrative Law Judge

Office of Administrative Hearings